

COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA 263/2022

Lt Col Ram Shiromani Singh (Retd.) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. S S Pandey, Advocate
For Respondents : Mr. AK Gautam, Sr. CGSC

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER

The applicant, who after his superannuation from service from the Army, has joined the service of the Institute of Liver and Biliary Sciences hereinafter referred to ILBS as a Deputy Head Operations (Non-Medical), according to the applicant, on contract basis for a fixed period of four years. The issue involved in this application is applicability of an order (Annexure A-1) dated 21.09.2021, issued by the Ministry of Defence, Department of Ex-Serviceman Welfare, whereby dearness relief for pension payable to the applicant has been denied on the ground that the remuneration paid to him by his current employer, namely, ILBS, includes dearness allowance as a component of salary and in accordance to Para 3 (B) (vi) of PCDA (P) Allahabad circular

No.200, he is not entitled to dearness relief on pension payable to him. It is an admitted position that the applicant is working in the ILBS. According to the applicant, he is working on contract basis and, therefore, entitled to Dearness Allowance (DA) in his salary and in pension which has been denied to him by the PCDA (P) Allahabad for no valid reason, by the impugned order Annexure (A-1), aggrieved thereof he has invoked the jurisdiction of this Tribunal.

2. Applicant was commissioned in the Indian Army on 14.12.1985, in the Mechanized Infantry and retired (PMR) on 02.04.2006 after rendering 20 years of military service and he is in receipt of service pension from the Ministry of Defence. After retirement from the Army, he was re-employed in the Jamia Milia Islamia University from 03.04.2006 to 13.11.2006. As he was re-employed pensioner, he was not granted dearness allowance on pension in accordance to the policies and circulars as applicable, namely, Para 3 (B) (vi) circular No.200, of PCDA (P) Allahabad. After his re-employment in Jamia Milia Islamia University came to an end on 13.11.2008, he joined the services of ILBS as a Deputy Head Operations (Non-Medical) on contract basis for a period of four years.

3. It is the case of the applicant that by virtue of the fact that he is on contract appointment with the ILBS, he is entitled to dearness

allowance on pension as per the circular of the PCDA (P) Allahabad dated 12.04.2018, and the same is being denied to him since 14.10.2008, till filing of this application and, therefore, he has invoked the jurisdiction of this Tribunal. It is the case of the applicant that he was appointed in the ILBS vide offer of appointment dated 13.10.2008, 23.10.2012 and 01.10.2016 issued from time to time on contract basis, collectively filed as Annexure A-5. It is his case that his appointment is on contract basis on a consolidated monthly remuneration of Rs 48,000/- as a package. In Para 1 of the offer of appointment dated 13.10.2008, it is mentioned that the appointment is on contract basis for a period of four years. The said appointment has been extended under the same terms and conditions on 23.10.2012 and in Para 2 of this order, it is stipulated that Transport Allowance, Child Education Allowance and other allowances are included in the contract. The contract was further extended on 01.10.2016, and in Para 2 of this letter also the various allowances payable to him are indicated. It is the case of the applicant that as per the Circular No.200 dated 12.04.2018, (Annexure A-6) issued by the Office of the PCDA (P) Allahabad, dearness relief to pensioner and family pensioner is to remain suspended during the period a pensioner or a family pensioner is re-employed/employed under the Central or State Government or in a

Statutory Corporation/ Company/ Body/ Bank under them in India or abroad.

4. According to the applicant, as per this circular in the case of a re-employed pensioner, the pay on re-appointment is to be fixed at the minimum of the pay scale attached to the post in which he is re-employed and such pensioner will consequently be entitled to dearness relief on his pension. It is the case of the applicant that as per the circular of the PCDA (P) Allahabad a pensioner will be entitled to dearness relief equal to dearness allowance on his pension from the date of discontinuation of pension due to re-employment, which is 14.10.2008. Vide Annexure A-7 on 23.10.2019, the ICICI Bank requested PCDA (P) Allahabad, to release dearness allowance on pension to the applicant and vide Annexure A-8 the PCDA (P) Allahabad, on 07.01.2021 replied to the ICICI Bank. It was indicated in this letter that dearness allowance on pension will remain suspended till the period of re-employment and be paid to re-employed person who gets consolidated pay without dearness allowance. The bank was directed to look into the matter again.

5. Accordingly, it is the case of the applicant that he was appointed on contract basis, and not on re-employment. The institute where he was appointed is an autonomous society under the Government of NCT of Delhi, the applicant is being paid

remuneration from the revenue generated from the autonomous Institute and the remuneration includes Dearness Allowance as a component but the PCDA (P) Allahabad, vide Annexure A-11 has denied dearness relief/dearness allowance on pension to the applicant on the ground that only re-employed persons who get consolidated pay without dearness allowance will be entitled to dearness allowance on pension.

6. Applicant relies on Annexure A-12, a communication dated 08.06.2021, issued by the Additional Director General of Manpower (Policy & Planning), Indian Army, wherein it is indicated that the applicant is working in the ILBS on contract basis and not as a re-employed person, therefore, the clause of re-employed person of the Circular No.200, is not applicable to him. In sum and substance the grievance of the applicant is that he was appointed on contract basis, he was getting a consolidated pay and, therefore, denying him dearness allowance/ dearness relief on pension on the ground that he was re-employed pensioner is unsustainable in law and the same is questioned in this application.

7. Respondents have filed a detailed counter affidavit and it is their contention that in accordance to Para 3 (B) (vi) of circular No.200, dated 12.04.2018, case of the applicant falls in clause 3 (B) (v), which provides that payment of dearness relief will be

discontinued due to re-employment. The contention of the applicant that he is not re-employed but working on contract basis is refuted by the respondents and they say that the applicant has not put the correct facts. Respondents referred to the rejoinder filed by the applicant and the communications available on record issued by the ILBS (Annexure A-20) dated 23.06.2022 to say that the salary paid to the applicant includes basic pay, dearness allowance and other allowances and, therefore, the applicant is getting dearness allowance. It is stated that in view of these facts he is not entitled to dearness relief on pension.

8. Respondents invite our attention to the pay slip filed by the applicant along with the rejoinder at page 95 of one Brigadier Debajyoti Bhattacharya, who is working as a Professor in the Department of Pulmonary Medicine. He is shown to be paid dearness allowance of Rs 55,182/- similarly at page 96 is the salary statement of the applicant from 01.05.2022 to 31.05.2022, wherein the applicant is also shown to be getting dearness allowance of Rs.73,644/- along with other employees like Col (Dr) Deepak Kumar Badwal Deputy Head Operations, Rajnish Kishore General Manager IT, Anjana David Assistant Head Operations etc., who were paid dearness allowance. The PCDA (P) Allahabad, according to the respondents, vide Annexure A-21 on 08.12.2023, wrote to the

Director of ILBS regarding payment of dearness relief on pension with regard to the defence pensioner and along with this letter sought information with regard to the payment of dearness relief to the pensioners and referring to the communications made to the Chief Manager, HDFC Bank on 08.12.2023, wherein the name of seven retired commissioned officers including that of the applicant were mentioned and it was indicated that these officers were drawing basic pay along with dearness allowance from ILBS and action was directed to be taken by the bank to recovery the arrears of dearness relief paid these employees along with pension as per Circular of PCDA (P) Allahabad No.200 of 12.04.2018.

9. According to the respondents they have directed the bank to stop payment of dearness relief on pension to these employees after the aforesaid rejoinder was filed. The matter was thereafter heard and we have reserved the case for judgment. However, during the course of hearing of this application on 09.12.2024, this specific issue which was in dispute was recorded "whether dearness relief could be granted to the applicant who is said to be working on contract basis". It was the case of the applicant that he was working on contract basis, he was not re-employed and therefore he was entitled for dearness relief on pension. In Para 2, of our order passed on 09.12.2024, we directed the respondents No.3 PCDA (P)

Allahabad, to file a reply to the counter affidavit by a competent officer. As indicated herein above the PCDA (P) Allahabad, stuck to its stand as detailed in the counter affidavit dated 09.12.2024 and the documents filed therewith including the communications made to the Director of ILBS on 08.12.2023, and to the Chief Manager HDFC Bank on 08.12.2023, and it was their contention that as the applicant is getting dearness allowance from the present employer ILBS, he is not entitled to dearness relief on pension. This statement was made on 25.02.2025, when the matter was heard and therefore on 24.02.2025, in the order vide Para 3 and 4 the respondents were directed to file a short affidavit. No affidavit was filed even though time was granted and therefore on 01.05.2025, we heard and reserved the matter.

10. However, while processing the case for pronouncement of judgement, we found that in the records the PCDA (P) Allahabad, vide communication dated 20.02.2025, addressed to the Officer In-charge Legal Cell along with the details of appointment letter of two employees namely Col (Dr) Deepak Kumar Badwal and Lt Col Rajnish Kishore issued by the ILBS were found to be receiving dearness allowance not only in the pay paid to them by ILBS but also with pension being paid to them.

11. Accordingly, we directed PCDA (P) Allahabad, to place on record the Pension Payment Orders of those two officers, namely, Col (Dr) Deepak Kumar Badwal and Lt Col Rajnish Kishore as well as Major General (Dr) Ravindra Chaturvedi (Retd.) Professor. In pursuance to the same, when we heard the matter on 04.08.2025, the documents filed by the PCDA (P) Allahabad, are nothing but the documents already available on record, namely, the communications made on 08.12.2023 by the Assistance Controller of Defence Accounts to the Chief Manager of HDFC Bank, indicating the name of the following seven officers including the applicant, Col (Dr) Deepak Kumar Badwal, Lt Col Rajnish Kishore, etc., directing that dearness relief on pension to be stopped.

<i>Sl No.</i>	<i>Name</i>	<i>IC No</i>	<i>PPO No./ Bank A/c No.</i>	<i>Period of employment</i>	<i>PDA/ Remarks</i>
1.	<i>Brig. D Bhattacharyya</i>	<i>MR04991W</i>	<i>10220170 0059/ 30692999 677</i>	<i>01 Jan 2018 to till date</i>	<i>SPARSH</i>
2.	<i>Lt. Col Ram Shiromani Singh</i>	<i>IC43227F</i>	<i>13120180 3409/ 25001503 622</i>	<i>14 Nov 2008 to till date</i>	<i>No DR is being paid</i>
3.	<i>Col. D K Badwal</i>	<i>MR06128F</i>	<i>13420170 00005/ 13919300 03401</i>	<i>03 Oct 2018 to till date</i>	<i>HDFC Bank</i>
4.	<i>Lt Col Rajnish Kishore</i>	<i>IC53855K</i>	<i>10120190 0531/ 50100296 015371</i>	<i>08 Jul 2019 to till date</i>	<i>SPARSH</i>
5.	<i>Major Anjana David</i>	<i>MS12691K</i>	<i>MDIS0000 072005/ 90302030 007148</i>	<i>12 Dec 2017 to till date</i>	<i>SPARSH</i>

6.	<i>Maj. Gen Ravinder Chaturvedi</i>	<i>MR04201W</i>	<i>10220160 0111/ 20051746 324</i>	<i>22 Sep 2016 to 04 Oct 2017</i>	<i>SPARSH</i>
7.	<i>Gp. Capt Sanjeev Sood</i>	<i>AF-17805L (MR- 05152R)</i>	<i>MIG33120 1310058/ 10253146 731</i>	<i>12 Jan 2015 to 08 Aug 2015</i>	<i>SPARSH</i>

“Note:- Therefore, you are requested to take necessary action in the matter regarding stoppage as well as recovery of arrears of DR as per this officer Cir. 179 dt 12/05/2015 and Cir. 200 dt. 12/04/2018 after verifying your records

*Sdxxx
(Virendra Kumar)
Asst. Controller of Defence Accounts”.*

12. However, along with additional affidavit the Pension Payment Slip of June 2025, with regard to the Col (Dr) Deepak Kumar Badwal has been filed and from the same we find that dearness relief of Rs.84,907/- is being paid to Col (Dr) Deepak Kumar Badwal. Similarly, the pension payment slip of Lt Col Rajnish Kishore, for June 2025, is also filed along with this affidavit and we find that dearness relief of Rs.65,494/- is being paid to this officer. Pension payment slip of Major General (Dr) R Chaturvedi, for June 2025, is also filed and in his case also dearness relief of Rs.65,313/- is being paid. Available on record is again the same communication dated 20.02.2025, which is referred to in our order dated 15.05.2025, wherein again we find that the Officer In-charge Legal Cell is informed about the payment being made to Col (Dr) D K Badwal and Lt Col Rajnish Kishore. We find that in spite of the specific directions issued to PCDA (P) Allahabad, on 15.05.2025 and

even earlier to that on various dates they are time and again coming out with the same excuse. They are trying to indicate to us that as per the circular No.200, dated 12.04.2018, dearness relief to pensioner and family pensioner remain suspended during the period the pensioner or family pensioner is re-employed. They also referred to the communication made to the HDFC Bank on 08.12.2023, to say that the bank has been directed to stop payment of dearness relief to the officers whose names are indicated in the said communication.

13. However, in spite of these communications on 04.08.2025, in response to our order passed on 15.05.2025, we find that even in June 2025, all the three persons named in our order Col (Dr.) Deepak Kumar Badwal, Lt Col Rajnish Kumar and Major General (Dr.) Ravindra Chatuvedi, are being paid pension from the Office of the PCDA (P) Allahabad, along with dearness relief on their pension and the overwhelming documents available on record indicate that they are also receiving dearness allowance on the remuneration paid to them by the ILBS.

14. The issue involved before us in this application is very simple. The question is as to whether the applicant is entitled to dearness relief on his pension or not. According to the respondents as the applicant is re-employed in ILBS he is not entitled to dearness relief on pension in view of the mandate of Circular No.200

dated 12.04.2018. However, the applicant submits that since he is on contract appointment like Col (Dr) Deepak Kumar Badwal & Lt Col Rajnish Kishore, he is entitled to dearness relief. He produces before us his appointment order to say that it is a contract appointment. However, in the rejoinder filed by the applicant we find that he has produced the appointment orders of various other similarly situated retired personnel from the Army, who were pensioners like Col (Dr.) Deepak Kumar Badwal, Lt Col Rajnish Kishore, who are also working in the ILBS as re-employed persons on contract basis, but they are being paid dearness allowance on their pay by ILBS and at the same time they are also paid dearness relief on pension.

15. The applicant has again submitted a list of fifteen employees. The persons from 1-7 in this list are working in various capacities in ILBS which includes the applicant at Ser No.2 and the pay slips of these employees are attached. The pay slips are of Brigadier Debajyoti Bhattacharyya, the applicant, Col (Dr.) Deepak Kumar Badwal, Lt Col Rajnish kishore, Major Anjana David, Major General Ravindra Chaturvedi and Gp. Capt. Sanjeev Sood. All of them are getting dearness allowance in the pay slip produced and the pay paid to them in May 2022, by ILBS.

16. Their offer of appointment shows that they are all on contract appointment like the applicant. It was in these circumstances that on 15.05.2025, after hearing the matter and reserving it for judgment that we specifically directed the respondents to clarify the position and now in the affidavit filed by the respondents in pursuance to the said order on 04.08.2025 and the documents, i.e., Annexure RA-2 (Colly) and Annexure RA-3, the position that emerges is that all the 07 persons including the applicant, Brigadier Debajyoti Bhattacharyya, Col (Dr.) Deepak Kumar Badwal, Lt Col Rajnish kishore, Major Anjana David, Major General Ravindra Chaturvedi and Gp. Capt. Sanjeev Sood are pensioners. Their PPOs and pension payment slips of June 2025 have been filed before us and from these documents, we find that all of them are not only receiving dearness allowance in their remuneration from the ILBS but in June 2025, they have been given dearness relief on their pension. Col (Dr.) Deepak Kumar Badwal, has been given dearness relief of Rs 84,907/- along with retiring pension of Rs.1,18,750/-. Similarly, Lt Col Rajnish Kishore has given dearness relief of Rs.65,494/-along with retiring pension of Rs.91,600/-, Major General (Dr.) Ravindra Chaturvedi, is getting retiring pension of Rs.1,87,750/- along with dearness relief of Rs. 65,313/- and except for relying on the documents circular already filed, respondents have

not demonstrated as to why and how the benefits granted to these officers are being denied to the applicant.

17. The documents brought on record vide affidavit dated 04.08.2025, clearly show that the employee like Col (Dr) Deepak Kumar Badwal, who is identically situated like the applicant is receiving not only dearness allowance in their remuneration from ILBS, but who are also getting dearness allowance on pension and even after the respondents communicated to the HDFC Bank to stop the dearness relief on pension granted to these officers way back in the year 2023. There is nothing available on record to show that the same has been done and the dearness relief being granted to these employees has been stopped.

18. On the contrary the pension payment slip of June 2025, and various other documents filed by the parties, particularly the applicant along with the affidavit dated 29.07.2025, show that all the employees are getting dearness allowance on their remuneration from ILBS and also dearness relief on their pension. That being so a case of discrimination in the matter of payment of dearness relief on pension to the applicant is clearly made out, even though the respondents in their counter affidavit relies upon the Circular No.200, and Para 3 (B) (v) thereof to say that on re-employment dearness relief on pension is not paid and even though they have

made communications to the ICICI Bank, Andheri Mumbai on 08.12.2020, to discontinue the payment of dearness relief to re-employed person when the queries were made on 15.05.2025, and that they filed affidavit on 04.08.2025, the position indicate that the applicant like many others, as indicated hereinabove is on contract appointment and even though they are paid Dearness Relief on pension same is denied to the applicant. In reply to a communication made to the PCDA (P) Allahabad on 08.12.2025, the certificate dated 16.02.2024 available at Page No.141 of the paper book was issued by the General Manager (Finance & Accounts) of ILBS. In this communication, it is indicated that the contractual staff of the institute are paid remuneration received from paying patients like corporate hospitals and not from Government's Grant-in-aid. The certificate certifies that this remuneration paid to contractual employees has various components like Basic Pay, Dearness Allowance and other allowances. It further certifies that the clause of Re-employed pensioners is not applicable to defence personnel's working on contract in this institute. From this, it is crystal clear that contract employees from the defence department who are working in the institute are paid dearness allowance and many such employees apart from getting dearness allowance from the institute

and are also getting dearness allowance on pension as detailed hereinabove in the preceding paragraphs.

19. Accordingly, we have no hesitation in holding that the applicant is also entitled to dearness relief on pension as claimed by him from the date it was discontinued and the respondents (UOI/PCDA (P) Prayagraj) should pay the same to the applicant. However, in case the respondents feel that the applicant or any other person is not entitled to dearness relief on account of the mandate of circular No.200, dated 12.04.2018, and the stipulations contained in the said circular they are free to take actions in accordance with law uniformly in the case of all similarly situated person. There cannot be a policy of pick and choose and discrimination in the matter of payment of dearness allowance.

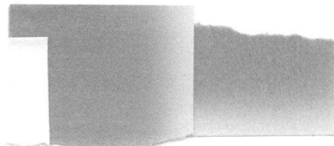
20. In view of the above, we allow this application and direct that applicant be also treated alike i.e., the treatment granted to persons like Lt Col Rajnish Kishore and Col (Dr.) Deepak Kumar Badwal and Major General Ravindra Chaturvedi and the applicant be also granted dearness relief on pension w.e.f. the date it was denied to him. The respondents are free to uniformly implement the policy contained in circular No.200, dated 12.04.2018, to all employees so long as the circular is in existence and there is no modification or change to the same after following due process of law i.e., uniformly

to all concerned in accordance with law. The aforesaid application stands allowed.

21. No order as to costs.

22. Pending miscellaneous application(s), if any, stand closed.

Pronounced in open Court on this 4th day of September 2025.



[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT GEN C.P. MOHANTY]
MEMBER (A)

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